

CALIFORNIA LITIGATION:

Section Chair's Editorial
Volume 12, Number 1, 1999

A Tumultuous Year
By Dana J. Dunwoody

1998 was a tumultuous 1998 year for the State Bar of California. It actually began in October of 1997 with then-Governor Wilson's veto of the annual fee bill. By June of 1998, the State Bar had laid off several hundred employees, and was working with a skeletal crew. Toward the end of the year the Bar had sold its building in order to finance its continued operations. Those who suffered most as a result of this (other than the Bar's employees who were laid off) were the individuals and business entities who had hired incompetent or unscrupulous counsel. The discipline system had effectively been gutted.

There is currently a huge backlog of ethics complaints against lawyers; the backlog was caused by inadequate funding of the Bar's traditional lawyer discipline programs. One telling fact is that within two months of the Bar's downsizing of a substantial portion of its staff who had been dedicated to processing complaints against lawyers, various financial institutions reported that they saw a sharp increase in withdrawals from lawyer trust accounts.

Some people view the Bar's decline in 1998 as a positive step toward eliminating a bloated bureaucracy which, like most bureaucracies, does not focus enough on the concepts of purview and cost containment. Others view the Bar's troubles in 1998 as having been caused by the Conference of Delegates, which had developed an increasingly radical legislative agenda, and was out of step with the average California lawyer who was funding the Conference. Still others see 1998 as having been a period of tragic loss for the Bar; these people are deeply chagrined that we will never be able to achieve status quo ante. Still others, of whom I am one, see merit in some of the arguments being made by the proponents of each of these positions. The people in this latter category tend to believe that although Governor Wilson took his position against the Bar to the extreme of political vendetta, the most important casualty of which was the Bar's function of properly administering discipline, Wilson's concerns about the Bar's unwieldiness and about some of the Conference of Delegates most radical legislative positions were partly justified.

Irrespective of one's political views, the single worst problem with the Conference of Delegates' most controversial legislative proposals was, in fact, that they were controversial at all. The Litigation Section's understanding of the Keller opinion is that no body acting under the auspices of the State Bar of California is supposed to take a political position on anything, including legislation which could be divisive of its membership. The Litigation Section has never taken a position on any potentially divisive legislation because to do so would be a disservice to the dissenting members of our section.

Having said that, historically the Conference of Delegates has promulgated useful legislation which benefits all California lawyers and citizens. In addition to the mass of excellent legislation the Conference of Delegates has passed over its life, it has also been a spawning ground for many of California's best lawyers and jurists.

We hope that when Governor Davis and the State Bar of California discuss the future of the State Bar, he will emerge with an appreciation for and knowledge of the history of the many beneficial and useful things which have been accomplished by the Bar, the Conference of Delegates, and the Sections. If viewed positively, the partial dismantling of the Bar in 1998 will allow the Bar's leadership to rebuild a newer, tighter organization without losing any of its aspects which have been so productive over the years.

For itself, throughout 1998 the Litigation Section maintained its tradition of excellence. For several years, the

Litigation Section has been self-funded, and continues to be. It continues to be the largest section within the State Bar, with approximately 10,000 members. The Litigation Section will continue to provide the same quality services and publications to which its members have become accustomed. Along with three issues per year of *California Litigation*, the Litigation Section will continue to publish its annual *California Litigation Review*.

Mr. Dunwoody, Chair of the Litigation Section, practices at Wilson, Petty, Dunwoody & Turner LLP in San Diego.

California Litigation is pleased to review original articles submitted for publication.
(Articles should be 8-10 double-spaced pages, or about 2,000 words.)

Please submit proposed articles to:

Russell Leibson
Editor-in-Chief, California Litigation
Law Offices of Russell Leibson
One Market Plaza
Steuart Street Tower, Suite 1600
San Francisco, CA 94105-1016

The journal is sent free to members of the Litigation Section.

The Litigation Section
State Bar of California, 180 Howard Street, San Francisco, CA 94105-1639